# Proposed Safety Standards Regulation Act

## An Invitation for Your Comments and Suggestions

We hope to receive your input by October 10, 2000

BRITISH COLUMBIA

DOC
BC
M8
D:P76
2000
c.3

Ministry of Municipal Affairs
August 2000

LEGISLATIVE LIBRARY
VICTORIA, BC

**Canadian Cataloguing in Publication Data**
British Columbia. Ministry of Municipal Affairs.
Proposed safety standards regulation act

ISBN 0-7726-4339-3

1. Industrial safety – Law and legislation - British Columbia. 2. Safety regulations - British Columbia. I. Title.

KEB409.4.A321B7 2000 344.7110465 C00-960281-X
KF3570.B7 2000

LEGISLATIVE LIBRARY OF BRITISH COLUMBIA
3 3298 00236 1682

**Message from the Minister**

This document provides an opportunity for you to respond to specific proposals in this near-final draft of the *Safety Standards Regulation Act*. In order to sustain public safety, while services are delivered as efficiently and economically as possible, the *Act* consolidates and updates legislation from the current *Electrical Safety Act*, *Elevating Devices Safety Act, Gas Safety Act*, and *Power Engineers and Boiler and Pressure Vessel Safety Act*, and transfers provisions from the *Railway Act* to the consolidated *Act*.

Safety, within the proposed *Act*, includes the regulation of electrical safety, elevating devices safety (including aerial tramways, amusement rides and elevators), gas safety, and boiler and pressure vessels safety(including refrigeration). It does not include the regulation of fire safety, building safety or rail safety.

The *Act* is intended to sustain public safety, while delivering services as efficiently as possible. It sets the stage for reducing "red tape" and government intervention in the activities of responsible clients. It will achieve these goals by strengthening compliance and enforcement tools, recognizing responsible participants in the safety system, and creating a uniform approach across safety programs. Once implemented, the *Act* and its accompanying regulations will give participants in the safety system a much improved understanding of one another's roles and responsibilities.

Your input will help us to fine tune this draft *Act* which we expect to put forward for Government's consideration for the next legislative session. We would appreciate your comments and suggestions by **October 10, 2000.** A contact address is provided on the feedback form.

Sincerely,

Cathy McGregor
Minister

## Table of Contents


1.0 Introduction ..... 3
When do we need feedback? ..... 3
Organization of this document ..... 3

2.0 Accomplishments to date ..... 4
Safety Systems Review (SSR) ..... 4
Recommendations from the SSR ..... 4
Response to the SSR recommendations ..... 5

3.0 Moving Forward ..... 6
Vision for the future ..... 6
Key features of the proposed Act ..... 6
Proposed next steps ..... 7

4.0 An Invitation for Your Comments and Suggestions ..... 7

5.0 Proposed Act ..... 8
What to Expect ..... 8
Safety Standards Regulation Act ..... 8
Part 1 – Application ..... 10
Part 2 – Administration ..... 11
Part 3 – Establishing Standards and Adopting Standards by Reference ..... 12
Part 4 – Effect of Certification Mark ..... 13
Part 5 – Safety Officers and Safety Managers ..... 13
Part 6 – Licensed Contractors and Licensed Individuals ..... 17
Part 7 – Implementation and Enforcement ..... 24
Part 8 – Safety Standards Appeal Board ..... 34
Part 10 – Prohibitions, Offences and Penalties ..... 41
Part 11 – General ..... 46
Part 12 – Regulation-Making Authority and Bylaws ..... 48
Part 13 – Transitional Provisions and Consequential Amendments ..... 51

6.0 Feedback Form (by October 10, 2000) ..... 53

## 1.0 Introduction

This document provides an opportunity for you to respond to specific proposals in this near-final draft of the *Safety Standards Regulation Act*. In order to sustain public safety, while services are delivered efficiently and economically as possible, the *Act* consolidates and updates legislation from the current *Electrical Safety Act*, *Elevating Devices Safety Act, Gas Safety Act*, and *Power Engineers and Boiler and Pressure Vessel Safety Act,* and transfers provisions from the *Railway Act* to the consolidated *Act*.

Safety, within the proposed *Act*, includes the regulation of electrical safety, elevating devices safety (including aerial tramways, amusement rides and elevators), gas safety, and boiler and pressure vessels safety (including refrigeration). It does not include the regulation of fire safety, building safety or rail safety.

### When do we need feedback?

Your input will help us to fine tune this draft *Act* which we expect to put forward for Government's consideration for the next legislative session. We would appreciate your comments and suggestions by **October 10, 2000.** A contact address is provided on the feedback form.

### Organization of this document

This document provides:

- Summary information on the extensive work and consultation done to date; additional information can be found on the Ministry Web site www.marh.gov.bc.ca/SES/SSR/
- What we heard through this consultation, and how we are moving forward;
- Your invitation to provide comments and suggestions;
- The table of contents and section by section details of the proposed *Act*.

## 2.0 Accomplishments to date

**Safety Systems Review (SSR)**

In 1994, the Minister of Municipal Affairs began a review of the building regulatory system. In the same year, the Ministry also began an internal review of safety programs and legislation relating to amusement rides, aerial tramways (i.e. ski lifts), boiler and pressure vessels, electrical equipment and installations, elevators, gas, intra-provincial railways, pipelines, refrigeration. These reviews were aimed at maintaining public safety in the face of resource limitations, changing operating environments and heightened technological change.

Subsequently, in April 1995, the Minister combined the two reviews and established the Safety Systems Review (SSR) to address the major issues affecting all of the Ministry's safety programs. The SSR was a two-year, highly consultative partnership of public and private sector participants active in the provincial safety system, and consisted of a Steering Committee with eighteen representatives from both government and the private sector, a Roles and Responsibilities Task Force, and nine Roles and Responsibilities Work Groups.

The Steering Committee released a discussion paper entitled *Roles and Responsibilities in the British Columbia Safety System* in November,1996. Comments were solicited from the nine working groups, local government, labour, industry and other interested groups. In addition, a summary resource document was developed to obtain feedback from ten Lower Mainland focus group sessions and 13 regional sessions. The Steering Committee then prepared its final report entitled *The Next Horizon: A New Vision For Delivering Safety in British Columbia,* (www.marh.gov.bc.ca/SES/SSR/HORIZON/) which was submitted to the Minister in May 1997. Approximately 10,000 hours of volunteer time were contributed.

**Recommendations from the SSR**

The review identified four distinct safety system horizons. Each horizon represents a potential working model of the system, each gradually being more dependent on greater resources, more training and more rigorous levels of planning. The Steering Committee recommended that these changes, from horizon to horizon, be introduced in a cautious fashion, with the necessary resources and support mechanisms in place.

As well, the SSR made thirty one specific recommendations (www.marh.gov.bc.ca/SES/SSR/HORIZON/execsumm.html) for change to the system including:

- Eliminating inconsistencies and redundancies in the current legislation;
- Strengthening compliance monitoring tools;
- Strengthening enforcement tools and leveling the "playing field" for responsible participants;
- Focusing on the qualifications of individuals working in the safety system; and
- Consolidating existing legislation

**Response to the SSR recommendations**

Following the delivery of the final report to the Minister, an internal review process commenced, leading to the development of legislative proposals for Cabinet. From these steps came a decision to follow a path of evolutionary change incorporating many of the principles outlined in the horizons.

Consultation occurred with local government, an advisory group representing institutions, industry, labour and business which was established by the Minister in response to the SSR and four technically specific advisory committees reporting to the Minister under current legislation. These committees have memberships ranging from 15-35 persons reflecting business, industry, institutional, government and labour interests.

The Ministry worked to develop and define draft legislation with a number of representative groups as well as ministries and agencies within government.

The Union of British Columbia Municipalities (UBCM) and the eleven municipalities that regulate gas and/or electrical safety were consulted through a focused discussion paper.

Also, the Ministry reviewed the means by which other provinces have addressed safety issues. In some jurisdictions major organizational restructures have been made. Based on this review and our consultations to date, BC has taken the approach of gradual change.

## 3.0 Moving Forward

**Vision for the future**

The SSR Steering Committee recommended following a gradual, evolutionary approach to reforming the safety system. In keeping with this recommendation, the Ministry is undertaking a multi-year reform of safety and standards legislation and regulations. This proposed legislation is a crucial step in that process.

When complete, the *Act* and regulations will help create a safety system that sustains public safety, while delivering services as efficiently and economically as possible.

The proposed legislation does not encompass building construction, plumbing or fire safety. These are elements of the safety system which are largely the responsibility of local government to administer. With respect to building, plumbing and fire safety, changes may ultimately be desirable for renewed regulatory systems in British Columbia, and the door remains open for that discussion. Note that the Ministry of Municipal Affairs is no longer responsible for the Building and Plumbing Codes and related policy development. These were transferred to the Ministry of Social Development and Economic Security in 1999.

**Key features of the proposed Act**

The proposed *Act* consolidates and modernizes the *Electrical Safety Act*, *Elevating Devices Safety Act, Gas Safety Act* and *Power Engineers and Boiler and Pressure Vessel Safety Act,* and transfers provisions from the *Railway Act* (aerial tramways) to the consolidated *Act*.

Key features include:

- Standardizing and streamlining common elements of existing legislation, such as the appeal process, licensing of contractors and individuals;
- Establishing a central registry of licensed contractors and licensed individuals;
- Clarifying the relationship of the provincial and local governments in regulating public safety;
- Continuing advisory bodies;
- Strengthening compliance and enforcement provisions, through compliance orders, discipline orders, safety orders and monetary penalties. Enforcement will focus on the higher risk participants;

- Substantially strengthening penalties for non-compliance and offenses;
- Provisions enabling electronic documentation;
- Authority to make regulations to set out the detailed requirements (e.g. discipline-specific rules will be detailed in the regulations); and
- Setting out the powers of safety officers and safety managers.

**Proposed next steps**

It should be noted that this legislation is a framework enabling a number of regulatory approaches which will have a more direct impact on the process of regulation and working in a regulatory environment than the *Act* itself (e.g. discipline-specific rules will be detailed under the regulations). Over the next few months, the development of the regulations will begin and will include a substantial consultation process involving business, industry, labour, provincial and local government regulators and training institutions.

## 4.0 An Invitation for Your Comments and Suggestions

We seek your written comments and suggestions on the draft *Act* by **October 10, 2000.**

Please complete the web site form or use the printed document at the back of this publication, or provide your comments via e-mail, fax, or letter to the listed addresses.

Following your input on this draft legislation, our proposed next steps are:

- Review responses
- Use responses to fine tune the final legislation in preparation for its consideration by government for the next legislative session
- Over the next few months, we will be initiating a consultative process leading to the development of regulations to give effect to this legislation.

## 5.0 Proposed Act

**What to Expect**
In the printed version, the text introducing a part or division of the *Act* is incorporated in the text of the *Act* under the respective title.

In the electronic version, the text introducing each division of the *Act* is located here and there are hyper links between references to divisions and sections and the *Act* itself.

# DRAFT

# Safety Standards Regulation Act

**Purpose** **This section defines key terms such as licensed contractor, licensed individual, incident, regulated product and regulated work which are used throughout the *Act*.**

**Definitions**

1 In this Act:

**"advisory body"** means an advisory body established under section 84;

**"alteration"** includes adding to, replacement and removal;

**"appeal board"** means the Safety Standards Appeal Board established under section 45;

"**certificate of qualification**" means a certificate issued by a provincial safety manager to an individual who provides evidence of their knowledge or ability to do regulated work in a manner that meets meets the requirements of the regulations;

**"certification agency"** means a person or class of persons designated by regulation of the minister as a certification agency;

**"certification mark"** means a stamp, mark, seal, label, tag or other identification of a certification agency certifying that the regulated product to which it is affixed or attached or in which it is embedded meets the standard that the product must meet for that certification;

**"component"** includes an appliance, device, equipment and fitting;

**"equivalent standards agreement"** means a written agreement between a person and a safety manager under section 34 in which an alternative approach to regulated

work or the use of a regulated product, consistent with the objectives of an existing code or standard, is substituted for a requirement in the existing code or standard;

**"incident"** means an event occurring as a result of regulated work, or the testing, use or operation of a regulated product, that

(a) causes death, personal injury or damage to property, or

(b) creates a significant risk of personal injury or damage to property;

**"inspect"** includes investigate, monitor and audit;

**"licensed contractor"** means a person who is licensed under section 21 as a licensed contractor to do regulated work in the one or more disciplines specified in the licence;

**"licensed individual"** means an individual who is licensed under section 26 to do regulated work in the one or more disciplines specified in the licence;

**"local government"** has the same meaning as in the *Local Government Act*, and includes the council of the City of Vancouver;

**"local safety manager"** means an individual appointed as a local safety manager under section 11 (2);

**"local safety officer"** means an individual appointed under section 10 (?) as a local safety officer;

**"owner"** includes a lessee;

**"permission"** does not include a licence;

**"premises"** means land, a building or a structure in, on or under which a regulated product is located or where regulated work is done;

**"provincial safety manager"** means an individual appointed under section 11 (1) as a provincial safety manager;

**"provincial safety officer"** means an individual appointed under section 10 (1) as a provincial safety officer;

**"regulated product"** means a product or thing referred to in section 2 (1) (b) to which this Act and the regulations apply, and if specified in the regulations, a part or component of that product or thing;

**"regulated work"** means

(a) the assembly, manufacture, construction, installation, operation, testing, maintenance or repair of a regulated product, and

(b) the alteration of a regulated product;

**"regulations"** includes codes and standards adopted under the authority of this Act;

**"safety manager"** means a provincial safety manager or a local safety manager;

**"safety officer"** means a provincial safety officer or a local safety officer;

**"safety related information"** means information that is relevant to the assessment of risk in the use of a regulated product or doing regulated work.

## PART 1 – APPLICATION

**Purpose**

**Sections 2 and 3 describe to whom and what the *Act* applies including persons doing regulated work, and amusement rides, aerial tramways, boiler, electrical, gas and refrigeration systems, elevating devices and pressure vessels. As with the current legislation, the new *Act* will not apply to mines and pipelines.**

**Section 4 provides for the disclosure of personal information, when required for public safety purposes, despite the *Freedom of Information and Protection of Privacy Act*.**

**Application of this Act**

2 (1) This Act and the regulations apply to all of the following:

(a) persons doing regulated work;

(b) all of the following regulated products as they are defined in the regulations:

(i) amusement rides;

(ii) aerial tramways;

(iii) boilers and boiler systems;

(iv) electrical systems and equipment;

(v) elevating devices;

(vi) gas systems and equipment;

(vii) pressure vessels;

(viii) refrigeration systems and equipment;

(ix) any other regulated product specified in the regulations;

(c) all of the disciplines, as defined by regulation, relating to regulated products.

(2) The regulations may, with or without conditions, exempt completely or partially from the application of any or all provisions of this Act and the regulations any of the following:

(a) a person or class of persons;

(b) anything referred to in subsection (1) (b);

(c) any regulated work or class of regulated work;

(d) anything referred to in this subsection that is within a specified geographic area.

**Act does not apply to mines and pipelines**

3 This Act does not apply to any of the following:

(a) a mine as defined in the *Mines Act*;

(b) a pipeline as defined in the *Pipeline Act*.

**Application of *Freedom of Information and Protection of Privacy Act***

4 If this Act requires or authorizes the disclosure, public inspection or other use of or access to records containing personal information within the meaning of the *Freedom of Information and Protection of Privacy Act*, the personal information may be disclosed despite that Act

## PART 2 – ADMINISTRATION

**Purpose**

**Section 5 makes the Minister responsible for the administration of the *Act* except where local government continues administration or receives responsibility for administration.**

**Section 6 provides for the continued provision of gas and/or electrical safety services by municipalities such as Burnaby, Kelowna and Vancouver which are already providing them.**

**At the request of a local government, section 7 will allow the Minister to enter into agreements with local governments to transfer the administration of parts of the *Act* or regulations with respect to regulated work and regulated product. This will not include transfer of licensing or appeal functions.**

**The section also deals with return transfers of the administration to the province and revoking of agreements.**

**Administration of this Act**

5 The minister is responsible for the administration of this Act and the regulations except in to the extent that:

(a) a local government continues its administration of gas systems and equipment or electrical systems and equipment under the regulations under section 6;

(b) the administration of any provision of this Act or the regulations is transferred under section 7 to a local government.

**Continuing existing local government administration of gas services and electrical services**

6 In order to continue local government administration of gas and electrical safety services, the Lieutenant Governor in Council may make regulations as follows:

(a) specifying the local governments that continue to administer those services;

(b) specifying the extent to which this Act and the regulations apply to a local government specified under paragraph (a) in relation to gas systems and equipment and electrical systems and equipment.

**Transfer of administration of this Act**

7 (1) If a local government, by resolution, enters into an agreement with the minister, the minister may transfer to the local government the administration of any provisions of this Act and the regulations with respect to regulated work or a regulated product, or both, specified in the agreement.

(2) The agreement must include provisions prescribed by the regulations of the minister, which may include the following;

(a) the standards that the local government must meet in administering the matters transferred to its administration;

(b) the timely reporting of incidents that come to its attention;

(c) the means by which the agreement may be amended, terminated or cancelled.

(3) The minister may revoke an agreement on reasonable notice to the local government.

(4) A local government administering this Act and the regulations, whether in accordance with an agreement made under this section or under a regulation under section 6, may, in accordance with the regulations, transfer back to the minister all or any part of that administration.

(5) The minister must publish in the Gazette, and may publish in a newspaper circulating in the area affected by the transfer, a notice of any transfer of administration made under this section.

## PART 3 – ESTABLISHING STANDARDS AND ADOPTING STANDARDS BY REFERENCE

**Purpose** **Section 8 is the authority for the Minister to establish codes or standards respecting regulated work and regulated products, or to adopt codes by reference. For example, the**

**BC Electrical Code adopts by reference the Canadian Electrical Code.**

**This section also explicitly provides that codes or standards adopted or established by the provincial government are the standard. Local government variation of these standards is not permitted.**

**Minister's powers to make regulations for safety standards**

**8** **(1) The minister may make regulations as follows:**

**(a) establishing codes or standards respecting regulated work and regulated products;**

**(b) as provided in the *Regulations Act*, enacting a code or standard by adopting material by reference or adopting a regulation by reference.**

**(2) A bylaw made by a local government, either before or after the coming into force of this section, that conflicts with or that differs from a standard set by this Act or the regulations has no effect to the extent of the conflict or difference.**

## PART 4 – EFFECT OF CERTIFICATION MARK

**Purpose** **Section 9 provides that a certification mark (e.g. provided by the Canadian Standards Association) is evidence that a regulated product meets the required certification standard.**

**Certification mark as evidence of approval of regulated product**

**9** The presence of a certification mark affixed to, attached to or imbedded in a regulated product is evidence, in the absence of evidence to the contrary, that the regulated product to which it is affixed or attached or in which it is embedded meets the standard that the product must meet for that certification.

## PART 5 – SAFETY OFFICERS AND SAFETY MANAGERS

### Division 1 – Appointment and Duties

**Purpose** **Division 1 (Sections 10 to 17) provides for the appointments of safety officers and safety managers and sets out their respective powers to enable them to administer the *Act* and regulations.**

**Safety officer is the generic name for a person who will perform the type of work carried out, for example, by electrical inspectors, codes and standards engineers and examiners.**

**Safety manager is the generic name for a person who will perform the type of functions carried out, for example, by Chief Electrical and Gas Inspectors.**

**Appointment of safety officers**

**10** (1) Provincial safety officers must be appointed under the *Public Service Act* to administer this Act and the regulations.

(2) A local government that administers any part of this Act or the regulations must appoint local safety officers to administer this Act and the regulations for the purposes of the local government.

(3) In order to be appointed under subsection (1) or (2), an individual must meet any qualifications and requirements prescribed by the regulations of the minister.

**Appointment of safety managers**

**11** (1) Provincial safety managers must be appointed under the *Public Service Act* to administer this Act and the regulations.

(2) A local government that administers any part of this Act or the regulations must appoint local safety managers to administer this Act and the regulations for the purposes of the local government.

(3) In order to be appointed under subsection (1) or (2), an individual must meet any qualifications and requirements prescribed by the regulations of the minister.

**Identification documents for safety officers and safety managers**

**12** (1) Appropriate identification must be issued

(a) by the government for provincial safety officers and provincial safety managers, and

(b) by a local government for its local safety officers and local safety managers.

(2) On request by any person, safety officers and safety managers must produce for inspection their identification provided under subsection (1).

**Joint appointment of local safety officers and local safety managers by agreement**

**13** For the purposes of sections 10 (2) and 11 (2), a local government may enter into an agreement with one or more other local governments to appoint local safety officers or

local safety managers and authorize them to act for all the participating local governments.

**Powers of provincial safety manager**

**14** A provincial safety manager may exercise any or all of the powers of a safety officer and may do one or more of the following:

(a) issue or revoke a certificate of qualification;

(b) issue, revoke or suspend a licence;

(c) issue a safety order;

(d) review a decision of a provincial safety officer;

(e) issue a directive or discipline order;

(f) delegate to a provincial safety officer or class of provincial safety officers the power to issue a licence for a licensed contractor or licensed individual.

**Powers of local safety manager**

**15** A local safety manager may exercise any or all of the powers of a local safety officer and may do the following:

(a) recommend to a provincial safety manager the revocation or suspension of a licence under this Act;

(b) review a decision of a local safety officer.

**Powers of safety managers**

**16** (1) A safety manager may disclose or publish any safety related information acquired, provided to or obtained by a safety officer in the performance of the safety officer's duties.

(2) A safety manager may do any of the following:

(a) enter into an equivalent standards agreement;

(b) impose a monetary penalty;

(c) delegate to a safety officer or class of safety officers the power to impose a monetary penalty.

(3) In addition to the powers under subsections (1) and (2), a safety manager has the powers assigned by regulation of the minister.

**Powers of safety officers**

**17** (1) For the purposes of this Act and in the course of performing their duties, safety officers may exercise any or all of the following powers and any other powers assigned to them under the regulations made by the minister:

(a) issue a permit under this Act or the regulations;

(b) enter any premises at any reasonable time for the purpose of

(i) inspecting regulated work, regulated products and records respecting regulated work or regulated products, or

(ii) investigating any incident;

(c) inspect all regulated products and regulated work found on any premises by a safety officer;

(d) require any regulated product that is being inspected to be started, turned on, put in motion, tested, used, operated, stopped or turned off for the purpose of its inspection by a safety officer;

(e) require the production before a safety officer of all plans and specifications a safety officer considers necessary for the inspection of any regulated work or regulated product that a safety officer is inspecting;

(f) after giving reasonable notice of the intention to do so, remove or take samples of or direct the removal of a regulated product or a part or component of a regulated product, or require any of them to be provided or delivered to a safety officer;

(g) require that the names and addresses of licensed contractors, licensed individuals or other persons engaged to do regulated work be provided, together with a statement setting out their qualifications, the nature of the work they do and when and where it is done;

(h) require that the names of employees be provided, together with a statement setting out which employees are licensed individuals, and the work each employee does;

(i) require that a person provide evidence that this Act and the regulations, and any safety order, compliance order, discipline order or decision of a provincial safety manager, a local safety manager or the appeal board is being, or has been, complied with;

(j) on reasonable notice, require that a person come to a location at a specified time to answer oral or written questions;

(k) require that a person produce any record for inspection;

(l) temporarily remove a record to copy it;

(m) during or after completion of regulated work, require a certificate or affidavit, given by a person recognized by the regulations as having the authority to provide a certificate or affidavit, that the specified regulated work meets the requirements of this Act and the regulations;

(n) issue a compliance order;

(o) issue a variance.

(2) A safety officer may require that a person provide information orally, in writing or by an affidavit.

### Division 2 – Cooperation with Safety Managers and Safety Officers

**Purpose** **Division 2 (Section 18) places a duty on persons subject to the *Act* to cooperate with safety managers and officers and requires licensed contractors and licensed individuals to disclose information about regulated products or regulated work that create significant risk of personal injury or damage to property. Persons disclosing information about such regulated products or regulated work are protected from repercussions by their employer.**

**Disclosure, cooperation and assistance to safety officers**

**18** (1) Every person who is subject to this Act and the regulations must cooperate with safety managers and safety officers in the performance of their duties, and provide to them any equipment or assistance that is reasonably necessary.

(2) An owner and the person in charge of the premises must take all necessary precautions to ensure the safety of people and property while safety managers and safety officers carry out their duties.

(3) A licensed contractor or licensed individual must disclose to a safety manager or safety officer any regulated product or regulated work that creates a significant risk of personal injury or damage to property.

(4) An employer must not dismiss, suspend, lay off, penalize, discipline or discriminate against any person if the reason for doing so is in any way related to the disclosure referred to in subsection (3).

## PART 6 – LICENSED CONTRACTORS AND LICENSED INDIVIDUALS

### Division 1 – Registry

**Purpose** **Division 1 (Sections 19 and 20) provides that the Minister must appoint a safety manager as the registrar and that the registrar must establish a registry of licensed contractors and licensed individuals. The registry will be a data base of information such as the names of licensed contractors and areas in which they are licensed. The registry will allow safety officers and managers to quickly confirm who is entitled to perform regulated work or operate regulated products, and will simplify the exchange of information between the Ministry and those subject to the *Act*.**

**Information must be disclosed to the public on request and on payment of a prescribed fee if the record was created in the last five years, and otherwise it may be disclosed.**

**Registry of licensed contractors and licensed individuals**

19 (1) The minister must appoint a provincial safety manager as the registrar and must establish a registry for the following purposes:

(a) to record the names of licensed contractors and former licensed contractors and any information required by this Act and the regulations, including the following:

(i) each discipline defined in the regulations under section 2 (1) (c) in which each contractor is licensed to do regulated work;

(ii) the nature and scope of the regulated work a contractor is licensed to do and any terms and conditions imposed on the contractor or attached to their licences;

(iii) the status of their licences;

(iv) any compliance orders, monetary penalties or discipline orders issued to them, any convictions for offences under this Act and the regulations and whether any amounts payable remain outstanding;

(v) an address for each of them for the purposes of service of documents;

(b) to record the individuals who apply for, are granted, or are refused, certificates of qualification in a discipline defined in the regulations under section 2 (1) (c);

(c) to record the names of licensed individuals and former licensed individuals and any other information required by this Act and the regulations, including the following:

(i) the certificates of qualification or equivalent qualifications, and any other relevant qualifications of the licensed individuals;

(ii) each discipline defined in the regulations under section 2 (1) (c) in which the licensed individuals are entitled to do regulated work;

(iii) the nature and scope of the regulated work the licensed individuals are entitled to do and any terms and conditions imposed on them or attached to their licences;

(iv) the status of their licences;

(v) any compliance orders, monetary penalties or discipline orders issued to them, any convictions for offences under this Act and the regulations and whether any amounts payable remain outstanding;

(v) an address for each of them for the purposes of service of documents.

(2) The registry may be established and maintained in written or electronic form, or both.

(3) The registrar appointed under subsection (1) is responsible for maintaining the registry and for carrying out any duties in respect of the registry under this Act and the regulations.

(4) The registrar may remove the name of

(a) a licensed individual or former licensed individual if the individual dies, surrenders their licence or is considered by the registrar to be inactive as defined in the regulations, and

(b) a licensed contractor or former licensed contractor if

(i) the licensed contractor is a corporation, the corporation is dissolved or struck off the register of companies, or

(ii) the licensed contractor is an individual, the contractor dies, surrenders their licence or is considered by the registrar to be inactive as defined in the regulations.

(5) A person whose name is entered in the register under this section must provide the registrar with and keep the registrar informed of the person's current address for the purpose of service of documents.

**Public access to information**

**20** (1) Information contained in the registry established under section 19 must be disclosed to the public on payment of the prescribed fee if the record was created within the previous 5 years.

(2) The registrar may disclose or publish any safety related information, material or statement in the possession of the registrar including information, material or statements given to the registrar by safety officers and safety managers in the performance of their duties.

## Division 2 – Licensed Contractors

**Purpose**

**Division 2 (Sections 21 to 24) explains the process and requirements for being licensed as a contractor under the *Act* and regulations.**

**Section 21 establishes a general rule that a person who wants to manage or direct licensed individuals doing regulated work, do regulated work for another person who is not a licensed contractor or do regulated work as a corporation must be a licensed contractor.**

**Section 22 sets out what registration as a licensed contractor means, section 23 explains the criteria for maintaining and renewing a contractor's licence, and section 24 clarifies that failure to renew leads to the automatic suspension of a licence.**

**Licensing of contractors**

**21** (1) A person must not do any of the following unless exempted by the regulations or licensed to do so under this section:

(a) manage or direct licensed individuals doing regulated work;

(b) do regulated work for another person who is not a licensed contractor;

(c) do regulated work as a corporation.

(2) If an applicant pays the prescribed application fee and meets the requirements for licensing prescribed by the regulations, the applicant must be licensed in each discipline defined in the regulations under section 2 (1) (c) for which the applicant qualifies.

(3) A licence issued under subsection (2)

(a) is subject to any terms and conditions imposed on a licensed contractor that are specified in the regulations,

(b) may specify in the licence the regulated work that the licensed contractor may do, and

(c) may impose terms and conditions on the licensed contractor or on the regulated work that the licensed contractor may do.

(4) A provincial safety manager may examine the applicant's qualifications and the qualifications of the applicant's employees and determine their level or category of qualification and for that purpose may devise and administer examinations as provided by the regulations.

(5) If, in the opinion of a provincial safety manager, the applicant does not meet the requirements for a licence or if the safety manager issues the licence with terms or conditions attached to it that are not requested or agreed to by the applicant, the provincial safety manager must give the applicant written notice of that decision.

(6) The notice must state the reasons for the decision and that the applicant has the right to appeal the decision to the appeal board.

**What registration as a licensed contractor means**

**22** (1) A contractor is entitled to engage in the regulated work for which the person is licensed.

(2) A licensed contractor must not

(a) arrange for, manage or do regulated work that is

(i) outside the scope of the licence,

(ii) contrary to any term or condition of the licence, or

(iii) contrary to any term or condition imposed on the use of the licence by the regulations, or

(b) permit regulated work to be undertaken by persons under the control of the licensed contractor who are not licensed individuals or otherwise authorized by regulation.

**Maintaining and renewing licenses**

**23** (1) A licensed contractor must do all of the following in accordance with the regulations:

(a) maintain any bond, guarantee, warranty, insurance or other form of security, as required by the regulations, with respect to regulated work;

(b) before a licence is renewed or reissued, pay any unpaid penalty, costs, interest or other charge imposed under this Act or the regulations, unless some other arrangement for payment has been made that is satisfactory to a provincial safety manager;

(c) meet any other conditions or requirements imposed on a licensed contractor by this Act or the regulations.

(2) If any amount referred to in subsection (1) (b) has not been paid, a renewal or reissue of any licence may be refused.

(3) Subsections (1) (c) and (2) do not apply to a monetary penalty while the penalty is the subject of an appeal.

**Automatic suspension of licence**

**24** (1) Unless a provincial safety manager otherwise directs, the licence of a licensed contractor is automatically suspended without notice if the licensed contractor fails to renew the licence on or before the date indicated in the licence.

(2) The automatic suspension of a licence ends as soon as the licence is renewed.

## Division 3 – Licensed Individuals

**Purpose**

**Division 3 (Sections 25 to 29) explains the process and requirements for being licensed as an individual under the *Act* and regulations.**

**Section 25 provides for issuance of certificates of qualification to persons who wish to be certified as qualified to obtain a licence. In order to obtain a licence, an individual**

**must have a certificate of qualification or an acceptable equivalent qualification.**

**Section 26 establishes a general rule that a person must not do regulated work for another person as a hired or contracted employee unless they are a licensed individual.**

**Section 27 sets out limitations on a licence, section 28 explains the process for renewing a licence and section 29 clarifies that failure to renew leads to the automatic suspension of a licence.**

**Certificate of qualification**

**25** (1) An individual who wishes to be certified as qualified to obtain a licence to do regulated work may, in accordance with the regulations, apply to a provincial safety manager for a certificate of qualification in one or more disciplines as defined in the regulations under section 2 (1) (c).

(2) An applicant who pays the prescribed application fee and meets the requirements of the regulations for a certificate of qualification, must be issued a certificate of qualification in each discipline for which the applicant is qualified.

(3) A provincial safety manager must examine the applicant's qualifications and determine their level or category of qualification and for that purpose may devise and administer tests as provided by the regulations.

(4) If, in the opinion of a provincial safety manager, the applicant does not meet the requirements of the regulations for a certificate of qualification, the provincial safety manager must give the applicant written notice of that decision.

(5) The notice must state the reasons for the decision and that the applicant has the right to appeal the decision to the appeal board.

**Licensing of individuals**

**26** (1) An individual must not do regulated work or do regulated work for another person as a hired or contracted employee unless exempted by the regulations or licensed to do so under this section.

(2) An individual who holds a certificate of qualification issued under section 25, or an equivalent qualification acceptable to a provincial safety manager, may, in accordance with the regulations, apply to a provincial safety manager to be licensed

(a) in one or more of the disciplines defined in the regulations under section 2 (1) (c), and

(b) in respect of regulated work that the applicant is qualified to do in each discipline.

(3) If an applicant pays the prescribed application fee and meets the requirements for licensing prescribed by the regulations, the applicant must be licensed in each discipline for which the applicant is qualified.

(4) A licence issued under subsection (3)

(a) is subject to any terms and conditions imposed on a licensed individual that are specified in the regulations,

(b) is limited to work to be done by a regular or occasional employee or work to be done under contract with a licensed contractor,

(c) may specify in the licence the regulated work that the licensed individual may do, and

(d) may impose terms and conditions on the licensed individual or on the regulated work that the licensed individual may do.

(5) If, in the opinion of a provincial safety manager, the applicant does not meet the requirements for licensing or if the safety manager issues the licence with terms or conditions attached to it that are not requested or agreed to by the applicant, the provincial safety manager must give the applicant written notice of that decision.

(6) The notice must state the reasons for the decision and that the applicant has the right to appeal the decision to the appeal board.

**What a licence means**

**27** (1) A licensed individual is entitled to engage in the regulated work described in the licence in each discipline for which the individual is licensed.

(2) A licensed individual must not do regulated work that is

(a) outside the scope of the licence,

(b) contrary to any term or condition of the licence, or

(c) contrary to any term or condition imposed on the use by the licensed individual of the licence.

**Renewal of licence**

**28** (1) In order to renew a licence as a licensed individual, a licensed individual must do all of the following:

(a) apply for renewal of the licence in accordance with the regulations;

(b) pay the prescribed renewal fee;

(c) before the licence is renewed or reissued, pay any unpaid penalty, costs, interest or other charge imposed under this Act or the regulations, unless

some other arrangement for payment has been made satisfactory to a provincial safety manager;

(d) meet any other conditions or requirements imposed on a licensed individual by the regulations.

(2) A renewal or reissue of a licence may be refused if any of the amounts referred to in subsection (1) (c) are not paid on or before the date that the licence is renewed or reissued.

(3) Subsections (1) (c) and (2) do not apply to a monetary penalty while the penalty is the subject of appeal.

**Automatic suspension of licence**

**29** (1) Unless a provincial safety manager otherwise directs, the licence of a licensed individual is automatically suspended if the licensed individual fails to renew their licence on or before the expiry date set by the regulations.

(2) The automatic suspension of a licence ends as soon as the licence is renewed.

## PART 7 – IMPLEMENTATION AND ENFORCEMENT

### Division 1 – Permits and Certificates

**Purpose** **Division 1 (Section 30) requires persons doing regulated work or using a regulated product to obtain permits or other permissions in accordance with the regulations, and establishes appeal rights for those applicants who are refused certificates or who disagree with terms and conditions of permission.**

**Issue of permits and certificates**

**30** (1) If required under this Act or the regulations in order to do regulated work or use a regulated product, a person must obtain a licence or permission to undertake the regulated work or use the regulated product.

(2) If a person applies for a permit, certificate or other permission and a safety manager or safety officer refuses to issue it, or issues it with terms or conditions attached to it that are not requested or agreed to by the applicant, the safety manager or safety officer who deals with the application must give the applicant written notice of that decision.

(3) The notice must state the reasons for the decision and that the applicant has the right to appeal the decision to the appeal board.

(4) A permit, certificate or other permission issued under this section may be renewed.

**Division 2 – Directives, Variances and Equivalent Standards Agreements**

**Purpose**

**Division 2 (Sections 31 to 34) will allow a provincial safety manager to issue:**

**-directives on the interpretation, application or operation of the *Act* and regulations.**

**-safety orders to deal with regulated work or regulated products that may meet current regulations, but which may still pose a significant risk of personal injury or damage to property.**

**Division 2 also enables a safety manager to enter into equivalent standards agreements which recognize alternative means of meeting the objectives of regulations.**

**A safety officer may issue a written variance to a person to authorize regulated work or regulated products to vary from the requirements in the regulations.**

**Directives**

**31** (1) A provincial safety manager may, on their own initiative or if requested by any person, issue a written directive on the interpretation, application or operation of this Act or the regulations.

(2) The directive may be issued

(a) generally,

(b) for a specific regulated product, regulated work or person or class of them, and

(c) for or in relation to a specified period of time.

(3) The provincial safety manager must give written notice if a directive is issued under subsection (1), to the person who made the request and to any person affected by the directive.

(4) The notice must state the reasons for the decision and that the person has the right to appeal the decision to the appeal board.

(5) If there is a conflict between a regulation and a directive of a provincial safety manager, the regulation prevails.

(6) A directive may be given in advance of an application for a permit, certificate or other permission required under this Act or the regulations.

**Safety orders**

32 (1) To prevent, avoid or remove significant risk of personal injury or damage to property, a provincial safety manager may issue a written safety order.

(2) A safety order may be issued for any of the following:

(a) generally, in relation to regulated work or regulated products;

(b) for a or class of regulated product or regulated work;

(c) for a specific regulated product or regulated work.

(3) For certainty, a safety order issued under this section may apply to

(a) regulated work that meets the current requirements of this Act and the regulations, or

(b) regulated products that meet the current requirements of this Act and the regulations, including a regulated product that bears a certification mark from a certification agency.

(4) A safety order may specify any requirement that removes a significant risk of personal injury or damage to property and may include any of the following orders:

(a) that an existing regulated work or regulated product must be made safe in compliance with the safety order;

(b) that a regulated product must be disconnected from a power source, uninstalled or modified before continued use;

(c) that a regulated product must be operated, installed, manufactured or disposed of only as specified;

(d) that current or future regulated work or a regulated product must conform to the terms or conditions of the order;

(e) that persons take or refrain from taking any action that a safety manager considers necessary to prevent a significant risk of personal injury to persons or damage to property.

(5) The provincial safety manager must give the manufacturer of the regulated product or owner of the regulated work who is affected by the safety order written notice of the safety order.

(6) The notice must state the reasons for the decision and that the person has the right to appeal the decision to the appeal board.

(7) Despite section 56, a safety order may not be stayed during an appeal.

**Variances**

33 (1) Subject to the regulations, a safety officer may, if requested by any person, issue a written variance to the person varying the application of a provision of the regulations with respect to a regulated product or regulated work.

(2) A variance may

(a) be made subject to terms and conditions specified by the safety officer, and

(b) continue for a specified period of time.

**Equivalent standards agreements**

34 (1) Subject to the regulations, a safety manager may, if requested by any person, enter into an equivalent standards agreement if

(a) the safety manager considers that the alternative approach to regulated work or use of a regulated product proposed would be consistent with the objectives of the regulations, and

(b) the alternative approach or use proposed under the agreement would not create a significant risk of personal injury or damage to property,

and in all the circumstances the safety manager is satisfied that the equivalent standards agreement should be issued.

(2) The equivalent standards agreement may

(a) be made subject to terms and conditions specified by the safety manager,

(b) take the form of

(i) a written statement by the safety manager recording the terms of the agreement, or

(ii) a written agreement between the safety manager and the applicant, and

(c) continue for a specified period of time.

## Division 3 – Electronic Records

**Purpose** **Division 3 (Sections 35 to 37) is being reviewed in light of the recently introduced *Electronic Transactions Act* (Bill 32, 2000) and its specific provisions regarding electronic documentation. The intention is that electronic documents and electronic signatures will be able to be used in relation to many aspects of the safety system.**

## Division 4 – Incident Reports and Investigations

**Purpose** **Division 4 (Sections 38 and 39) requires owners or persons in charge of regulated products or regulated work to report any incidents (refer to definitions) to a safety manager. Safety officers will be empowered to investigate incidents and to employ qualified persons to assist in the investigation. The minister may also appoint a qualified person other than a safety officer to conduct an investigation. Investigating incidents will ensure that specific safety risks are corrected and provide valuable safety related information that has a general application in the interest of public safety.**

**Reporting incidents**

**38** (1) As soon as practicable after an incident occurs, the person in charge of the regulated product or regulated work, and the owner of the regulated product are responsible for reporting the incident, in accordance with the regulations, to the appropriate safety manager.

(2) A person must not remove, disturb or interfere with anything in, on or about the place where the incident occurred except for the following:

(a) as is necessary to prevent personal injury or death or to protect property;

(b) in accordance with the regulations;

(c) in accordance with the directions of a safety officer or safety manager.

**Investigating incidents**

**39** (1) Whether or not the incident was reported, a safety officer, may investigate an incident and, despite the *Public Service Act*, may appoint qualified persons to assist them in the investigation.

(2) Despite the *Public Service Act*, the minister may appoint a qualified person other than a safety officer to conduct an investigation under subsection (1).

(3) A person referred to in subsection (1) or (2) who investigates an incident

(a) has all the powers of a safety officer under section 17, and

(b) must report on the investigation to the person or persons who appointed the investigator.

## Division 5 – Enforcement

**Purpose**

**Division 5 (Sections 40 to 44) provides the enforcement tools to ensure compliance with the *Act* and regulations.**

**Section 40 enables a safety officer to issue compliance orders to authorize regulated work or regulated product to be brought into compliance with the *Act* and regulations.**

**Section 41 provides authority for a safety manager to apply to the courts for an order to enforce a compliance order or safety order.**

**Section 42 provides new authority for safety managers to impose monetary penalties in situations of non-compliance and section 43 outlines the process for enforcement of monetary penalties.**

**Section 44 provides authority for a safety manager to issue a written discipline order to a licensed contractor or licensed individual which may impose any sanction (e.g. licence suspension; changing terms and conditions; work only under supervision) that the safety manager considers necessary.**

**Compliance orders**

**40** (1) A safety officer may issue a compliance order under this section if

(a) in the opinion of the officer there is a significant risk of personal injury or damage to property because

(i) regulated work is being carried out in a manner that does not comply with this Act or the regulations, or

(ii) a regulated product is being used or disposed of in a manner that does not comply with this Act or the regulations,

(b) a person

(i) fails to comply with a requirement of a safety officer or safety manager who is carrying out duties assigned by this Act or the regulations, or

(ii) obstructs, hinders, delays or fails to cooperate with or provide necessary assistance to a safety officer or safety manager who is carrying out duties assigned by this Act or the regulations, or

(c) a person fails to comply with this Act or the regulations.

(2) A compliance order must meet all the following requirements:

(a) name the person to whom the order is addressed;

(b) specify the action to be taken, stopped or modified;

(c) state the reasons for the order;

(d) state that the person affected may appeal the order to the appeal board;

(e) be dated the day the order is made;

(f) be served on the person to whom it is addressed.

(3) Without limiting subsection (2) (b), a compliance order may specify any of the following requirements:

(a) that regulated work be stopped, or that practices involving the regulated work be modified;

(b) to the extent required by the regulations, that minimum numbers of licensed or otherwise qualified persons be engaged in the performance of regulated work;

(c) that a regulated product be stopped, closed down or disconnected from energy sources, or that practices involving the regulated product be modified;

(d) that advertising, display or disposal of a regulated product be stopped;

(e) that any other action by a person be taken, modified or stopped if necessary to prevent significant risk of personal injury or damage to property.

(4) A safety officer may amend a compliance order and subsection (2) applies.

(5) If satisfied that the circumstances that gave rise to a compliance order are no longer present, a safety officer may terminate a compliance order by providing the person to whom the order is addressed with written permission to resume the work or activity detailed in the order.

(6) Regulated work or a regulated product that has been closed down, stopped, disconnected or turned off must not be started, reconnected or turned on again except

(a) as provided for in the order, or

(b) with written permission of a safety officer.

**Court ordered compliance**

**41** (1) If a person refuses or fails to comply with a safety order under section 32 or a compliance order under section 40, a safety manager may apply to a justice for an order to direct compliance with the safety order or compliance order.

(2) The justice, on being satisfied there is a significant risk of personal injury or damage to property, may order that the safety order or compliance order be

complied with, on any conditions the justice considers necessary, and the order takes precedence over any decision of a safety manager or the appeal board.

**Monetary penalty**

**42** (1) A safety manager may, in accordance with the regulations, impose a monetary penalty on a person who fails to comply with any of the following:

(a) this Act;

(b) a regulation under this Act, the contravention of which is stated in the regulations to make the person liable to a monetary penalty;

(c) a compliance order;

(d) a discipline order;

(e) a safety order;

(f) a term or condition of a licence;

(g) a term or condition of a permit, certificate, directive, equivalent standards agreement or variance issued by a safety officer or safety manager.

(2) A monetary penalty may be

(a) a single amount, or

(b) an amount for each day that the contravention remains uncorrected or until the person who is the subject of the penalty is, in the opinion of the safety manager, taking reasonable measures to bring the regulated work or regulated product into compliance.

(3) The total amount imposed on a person under this section for a contravention must not be greater than $50 000.

(4) If a monetary penalty is imposed by a safety manager under this section, the safety manager must serve notice on the person on whom the monetary penalty is imposed.

(5) The notice must state the following:

(a) the name of the person liable to pay the monetary penalty;

(b) the reasons for imposing the monetary penalty;

(c) the time at which the monetary penalty is to take effect;

(d) the amount of the proposed monetary penalty and whether it is imposed as a single amount or as an amount for each day the contravention continues;

(e) the date by which the monetary penalty is to be paid;

(f) a statement that the person liable to pay the monetary penalty may appeal the imposition of the penalty to the appeal board.

(6) A person is not liable to a monetary penalty if the person proves that they exercised due diligence to prevent the non-compliance to which the penalty relates.

(7) A person subject to a monetary penalty under this section must pay the amount of the penalty

(a) if it is imposed by a provincial safety manager, into the consolidated revenue fund, or

(b) if it is imposed by a local safety manager, to the local government.

(8) If a monetary penalty is reduced or cancelled on appeal, the amount to be returned to the person must include interest.

(9) If a corporation is liable to a monetary penalty imposed under this section, every director, officer, or other person who authorizes, permits or acquiesces in the contravention is personally liable for the penalty.

(10) A person on whom a monetary penalty has been imposed under this section must pay the penalty whether or not the person

(a) has been convicted of an offence under this Act or the regulations, or

(b) is also liable to a fine for an offence under this Act or the regulations.

(11) A monetary penalty imposed under this section must be paid

(a) within 30 days after the date on which the notice referred to in subsection (4) is served on the person,

(b) if there is an appeal respecting the monetary penalty, within 30 days after the amount of a monetary penalty is confirmed by the appeal board or within a longer time specified by the appeal board, or

(c) within any longer period specified by the safety manager.

**Enforcement of monetary penalties**

**43** When the appeal period has expired, or the appeal board has dismissed the appeal or varied the monetary penalty, the monetary penalty as imposed or varied

(a) constitutes a debt payable by the person on whom the penalty is imposed, and

(b) may be enforced by filing a certified copy of the notice imposing the monetary penalty with the Supreme Court and on being filed all proceedings may be taken on it as if it were a judgment of the Supreme Court.

**Discipline orders**

**44** (1) A provincial safety manager may, on their own initiative or if requested by a safety officer or local safety manager, issue a written discipline order to a licensed contractor or a licensed individual if the licensed contractor or licensed individual

(a) is in breach of a condition of, or restriction on, the licence, whether stated in the licence or stated in the regulations,

(b) practises in a discipline as defined in the regulations under section 2 (1) (c) for which the individual or contractor is not licensed or undertakes regulated work that the individual or contractor is not qualified to undertake,

(c) fails to comply with a compliance order,

(d) fails to pay a monetary penalty, or

(e) is convicted of an offence under this Act or the regulations.

(2) Before issuing written discipline order, the provincial safety manager must serve a notice on the person affected that sets out the following:

(a) the name of the person who is the subject of the proposed discipline order;

(b) the basis on which the discipline order is being considered;

(c) the time during which any sanctions are to apply;

(d) a statement that the person may make representations to the safety manager respecting the proposed order;

(e) the time limit for giving notice to the safety manager that the person intends to make representations referred to in paragraph (d).

(3) A discipline order under subsection (1) must

(a) name the licensed contractor or licensed individual to whom the order is addressed,

(b) state the sanction imposed by the order,

(c) state the reasons for the order,

(d) state that the person affected may appeal the order to the appeal board,

(d) be dated the day the order is made,

(e) be signed by the provincial safety manager, and

(f) be served on the person named in the order.

(4) A discipline order under subsection (1) may impose any sanction that the provincial safety manager considers necessary in the circumstances, including any of the following orders:

(a) an order suspending or revoking the licence of a licensed individual or licensed contractor;

(b) an order changing the terms or conditions of, or attaching additional terms or conditions to, the licence of a licensed individual or licensed contractor;

(c) an order requiring that the licensed individual or licensed contractor work or act only under the supervision of another licensed individual or licensed contractor or as directed in the order.

(5) Despite subsection (4), a discipline order may allow a person suspended under this section to undertake regulated work in order to bring a non-complying regulated work into compliance.

## PART 8 – SAFETY STANDARDS APPEAL BOARD

**Purpose** **Sections 45 to 50 relate to the establishment of the Safety Standards Appeal Board, remuneration of members, impartiality, retaining of consultants, organization and rules of practice and procedure.**

**The new board combines current boards for purposes of efficiency and consistency. However, the *Act* still authorizes establishment of separate panels of the appeal board which will maintain individual and specialized knowledge about regulated products and regulated work. The new board will have authority to resolve matters before going to formal hearing.**

**Appeal board established**

**45** (1) An appeal board to be known as the Safety Standards Appeal Board is established consisting of members appointed by the minister.

(2) The minister must designate one of the members of the appeal board as chair and may designate one or more members of the board as vice chair.

(3) The minister may appoint the chair for a term of up to 5 years and other members for terms of up to 3 years.

(4) If the position of chair is vacant or the chair is absent or unable to act, a vice chair may act in place of the chair.

**Remuneration of chair and other members**

**46** (1) The minister may determine the remuneration of the chair and other members of the appeal board.

(2) The chair and other members of the board must be reimbursed for reasonable travelling and out of pocket expenses necessarily incurred in carrying out their duties.

**Impartiality of appeal board**

**47** Members of the appeal board must faithfully, honestly and impartially perform their duties and must not, except in the proper performance of those duties, disclose to any person any information obtained as members.

**Retaining consultants, investigators**

**48** (1) The chair of the appeal board may retain consultants, investigators, expert witnesses or other persons as may be necessary for the board to discharge its

duties under this Act and may establish their remuneration and other terms and conditions of their retainers.

(2) The *Public Service Act* does not apply to a person retained under subsection (1).

**Organization of the appeal board**

**49** (1) The chair of the appeal board may organize the board into panels, each comprised of one or more members.

(2) If the chair organizes a panel comprising more than one member, the chair must designate one of those members as chair of the panel.

(3) The members of the appeal board may sit

(a) as a board, or

(b) as a panel of the board.

(4) Two or more panels may sit at the same time.

(5) If members of the appeal board sit as a panel,

(a) the panel has the jurisdiction of, and may exercise and perform the powers and duties of, the board, and

(b) an order, decision or action of the panel is an order, decision or action of the board.

(6) The decision of a majority of the members of the appeal board or a panel of the board is a decision of the board and, in the case of a tie vote,

(a) of the board, the decision of the chair governs, and

(b) of a panel of the board, the decision of the chair of the panel governs.

(7) If a member of the appeal board is unable for any reason to complete the member's duties, the remaining members of the board or of a panel may, with consent of the chair of the board, continue to hear and determine the matter, and the vacancy does not invalidate the proceeding.

(8) A member of the appeal board who resigns or whose term expires may continue to sit and make determinations in a proceeding if the member was assigned to the proceeding during office and all determinations made by that member are as effective as though still in office.

**Rules of practice and procedure**

**50** (1) The appeal board may determine the rules of practice and procedure to be followed in appeals.

(2) The appeal board may establish rules generally or for a specific matter or class of matters, including rules respecting any of the following:

(a) prehearing matters;

(b) the consolidation of appeals made to the appeal board;

(c) procedures to attempt to resolve appeals before a hearing takes place, including provisions for settlement conferences and the confidentiality of material and information provided for the purpose of resolving an issue in the course of an appeal;

(d) hearing procedures;

(e) the efficient, effective and expeditious resolution of matters coming before the appeal board.

## PART 9 – REVIEW AND APPEAL PROCESSES

### Division 1 – Request for Review

**Purpose** **Division 1 (Sections 51 and 52) sets out procedures for requesting a review of a safety officer's decision under section 40. Unless the safety manager refers the matter directly to the appeal board, the safety manager must review the matter to confirm, vary or reverse the safety officer's decision. The safety manager's decision can be appealed to the board. This process is new in relation to compliance orders and tries to create a mechanism for resolving disputes without going to the appeal board**

**Review of safety officer's decision**

**51** (1) Within 30 days of the date the order, notice or decision is served on the person, a person who has a right to request a review of a safety officer's decision under 40 must make a written request stating in the request the reason for the request,

(a) if the decision was made by a local safety officer, to a local safety manager, and

(b) if the decision was made by a provincial safety officer, to a provincial safety manager.

(2) With the agreement of the person making the request, a safety manager who receives a request for review may refer the matter directly to the appeal board.

(3) On the safety manager's own initiative within the 30 days referred to in subsection (1), a safety manager may review a decision of a safety officer that could be reviewed under subsection (1) by serving notice of the intention to do so on the safety officer and the person who has a right to request a review of the decision, and section 52 applies.

**Safety manager's decision**

**52** (1) Unless the safety manager refers the matter to the appeal board under section 51 (2), a safety manager must, as soon as practicable after receiving a request under section 51 (1) or initiating a review under section 51 (3), review the order, notice or decision.

(2) The safety manager

(a) must on request of the person affected by the safety officer's decision, hear the person's submissions,

(b) may review the matter on the basis of documents only, or may make any investigation of the matter that the manager considers necessary,

(c) may, by written order with reasons, confirm, vary or reverse the safety officer's decision, substitute a decision or refer the matter back to the safety officer with or without directions,

(d) must serve notice of the order on the person affected by the safety officer's decision, and

(e) must provide a copy of the order to the safety officer.

(3) A local safety manager who reviews a local safety officer's decision may request advice from a provincial safety manager, but if so must give the person who requested the review an opportunity to make submissions on that advice.

(4) The notice under subsection (2) (d) must state the reasons for the safety manager's decision and that the person who requested the review has the right to appeal the decision to the appeal board.

## Division 2 – Appeals to the Safety Standards Appeal Board

**Purpose**

**Division 2 (Sections 53 to 64) provides clear rules, procedures and powers related to:**

- **appeals to the Safety Standards Appeal Board;**
- **jurisdiction of the board;**
- **nature of an appeal;**
- **power of the board to stay the effect of the order under appeal;**
- **authority for the board to facilitate just and timely resolutions;**
- **powers of the board to summon records and persons;**
- **details of the types of evidence which may be admitted; and**
- **rights of parties involved in an appeal.**

**Decisions on variances apply only to the specific case and do not set general precedents. Division 2 also sets out the rules on hearings and decisions, appeal costs and enforcement of appeal board orders.**

**Right to appeal**

53 (1) A person who has a right to appeal to the appeal board must appeal, in writing, to the appeal board within 30 days of the date the order, notice or decision is served on the appellant and must state the reason for the appeal.

(2) In special circumstances, as determined by the appeal board, the appeal board may extend the time or reopen the time for appeal.

(3) The appeal board must decide

(a) who is a party to the appeal, and

(b) who may intervene in an appeal to make representations or provide evidence, or both, to the appeal board.

(4) A provincial safety manager has standing to intervene in an appeal whether or not the provincial safety manager was a party to the decision being appealed.

(5) The appeal board must serve notice of the date, time and place of the hearing to the parties to the appeal, any intervenors and any other person it considers to be sufficiently interested in the appeal.

**Jurisdiction of the appeal board**

54 (1) When hearing appeals the appeal board must consider the maintenance and enhancement of public safety.

(2) Unless an appeal is withdrawn, the parties otherwise agree, or the appeal is resolved in another way, the appeal board must hear an appeal as soon as practicable after receiving the appeal.

**Nature of appeal**

55 An appeal is a new hearing unless the parties to the appeal otherwise agree.

**Power to stay effect of order under appeal**

56 (1) On application, the appeal board or a member of the board may order that the decision being appealed is stayed for a period of time or subject to conditions, or both.

(2) Subsection (1) does not apply if an application to a justice to enforce an order for compliance under section 41 has been made in respect of the decision under appeal.

**Orders to facilitate just and timely resolutions**

**57** (1) The appeal board may make any order the board considers necessary to facilitate just and timely resolutions of appeals.

(2) Without limiting subsection (1), the appeal board may make orders

(a) requiring the parties to the appeal to file written submissions with the board in respect of all or any part of the proceeding,

(b) respecting the filing of admissions by parties,

(c) respecting disclosure, including, without limitation, prehearing examination of a party on oath or solemn affirmation or by affidavit,

(d) respecting exchange of records by parties,

(e) directing the joining of appeals, issues or parties, and

(f) requiring the parties to attend a confidential, without prejudice, prehearing conference in order to discuss issues in the appeal and the possibility of simplifying or disposing of any such issues, and for this purpose, the board may order that the conference not be open to the public.

(3) If an appellant fails to comply with an order made under this section, the appeal board may dismiss the appeal.

(4) The appeal board may hear, consider or determine an appeal, or conduct any proceeding in an appeal, even though a party to an appeal under this Part fails to attend the proceeding, file or make submissions, make disclosure or exchange records, in accordance with an order of the board.

(5) For the purposes of subsection (4), the appeal board may make any order the board considers appropriate in relation to the party referred to in that subsection, including, without limitation, restricting the party's continued participation in the appeal and the party's ability to submit evidence or make submissions.

**Powers of appeal board**

**58** (1) The appeal board or a member of the appeal board has the same power that the Supreme Court has for the trial of civil actions

(a) to summon and enforce the attendance of witnesses,

(b) to compel witnesses to give evidence on oath or in any other manner, and

(c) to compel witnesses to produce records and things.

(2) When the appeal board or a member of it exercises a power under subsection (1), a person who fails or refuses to do any of the following is liable, on application to the Supreme Court, to be committed for contempt as if in breach of an order or judgment of the Supreme Court:

(a) to attend;

(b) to take an oath or solemn affirmation;

(c) to answer questions;

(d) to produce the records or things in the person's custody or possession.

**Evidence**

**59** (1) In an appeal under this Part, the board may admit any oral or written testimony or any record or thing as evidence in the appeal, whether or not admissible as evidence in a court of law or given or proven under oath or solemn affirmation.

(2) The appeal board may not admit as evidence in an appeal anything that is privileged under the laws of evidence.

**Rights of parties**

**60** In an appeal, a party may

(a) be represented by counsel,

(b) present evidence,

(c) if there is an oral hearing, ask questions, and

(d) make submissions as to facts, law and jurisdiction.

**Decisions on variances**

**61** When the appeal board makes a decision on a variance, the decision does not create a precedent and applies only with respect to the regulated product or regulated work.

**Appeal board's hearing and decision**

**62** (1) The appeal board may appoint one of its members or any other person to seek to resolve the appeal by any appropriate means, including mediation, facilitation or obtaining an independent opinion.

(2) If the appeal is not otherwise resolved, the appeal board must

(a) decide the matter by confirming, varying or reversing the decision, or referring the matter back with or without directions, or substituting its own decision, and

(b) provide reasons for its decision.

(3) The board must notify the parties and any intervenors of its decisions.

(4) A decision of the appeal board is final and binding.

**Appeal costs**

**63** The appeal board may make an order requiring

(a) one party or parties, or one or more intervenors, to pay to another party or parties, or one or more intervenors, costs determined in accordance with the regulations, or

(b) any parties or intervenors to pay all or a portion of the costs of the appeal board, determined in accordance with the regulations.

**Enforcement of appeal board orders**

**64** A certified copy of an order of the appeal board may be filed in the Supreme Court and on being filed all proceedings may be taken on it, as if it were a judgment of the Supreme Court.

## PART 10 – PROHIBITIONS, OFFENCES AND PENALTIES

### Division 1 – Prohibitions

**Purpose** **Division 1 (Sections 65 to 73) sets out general and specific prohibitions with respect to activities involving regulated products and regulated work. By controlling these activities, public safety is enhanced, and it becomes very clear what is acceptable behaviour in this area.**

**General prohibitions**

**65** A person must not do any of the following:

(a) assemble, manufacture, construct, test, install, operate, use, maintain, repair or alter a regulated product contrary to this Act or the regulations;

(b) if the regulations require a person to obtain a permit, certificate or other permission before starting regulated work, do, or continue to do, the regulated work without the required permit, certificate or permission;

(c) if the regulations require a person to obtain a permit, certificate or other permission before using or operating a regulated product, use or operate, or continue to use or operate, the regulated product without the required permit, certificate or permission;

(d) contravene a term or condition of a permit, certificate, equivalent standards agreement or other permission or a licence.

**Construction of regulated products**

**66** A person must not assemble, construct or install a regulated product unless that person is

(a) a licensed contractor,

(b) a licensed individual, or

(c) permitted to do so under the regulations.

**Testing of regulated products**

**67** A person must not test a regulated product unless that person is

(a) a licensed individual,

(b) acting under the authority of a certification agency,

(c) a safety officer or safety manager, or a person authorized by a safety officer or safety manager, or

(d) permitted to do so under the regulations.

**Maintenance and repair of regulated products**

**68** A person must not maintain or repair a regulated product unless that person is

(a) a licensed contractor,

(b) a licensed individual, or

(c) permitted to do so under the regulations.

**Additions to a regulated product**

**69** A person must not assemble, construct or install an addition to, or add anything to, a regulated product unless that person is

(a) a licensed contractor,

(b) a licensed individual, or

(c) permitted to do so under the regulations.

**Alteration of regulated products**

**70** (1) A person must not alter a regulated product if the alteration would or is likely to

(a) result in the product ceasing to meet the requirements of the regulations, or

(b) result in the product ceasing to meet the standards required to be met by the certification agency, or any successor of that agency, that authorized the use of a certification mark for the regulated product.

(2) If an alteration to a regulated product is permitted under subsection (1), a person must not do the alteration unless that person is

(a) a licensed contractor,

(b) a licensed individual, or

(c) permitted to do so under the regulations.

**Operation and use of regulated products**

**71** (1) If required by the regulations, a person must not operate a regulated product unless that person is

(a) a licensed contractor,

(b) a licensed individual,

(c) permitted to do so under the regulations, or

(d) any other person approved by a safety manager.

(2) A person must not use a regulated product in a manner that is unsafe or that creates a significant risk of personal injury or damage to property.

**Disposal of regulated products**

72 (1) A person must not display, have available for disposal, advertise for disposal or dispose of a regulated product unless it bears a certification mark.

(2) A person must not display, have available for disposal, advertise for disposal or dispose of a regulated product knowing that, if the product were used or operated normally, it would or could be unsafe, or create a significant risk of personal injury or damage to property.

(3) Subsection (2) applies even if the regulated product bears a certification mark.

(4) If required by the regulations, a record of every regulated product that is disposed of must be kept in accordance with the regulations.

**Regulated work**

73 A person must not do regulated work unless the person is

(a) a licensed contractor,

(b) a licensed individual, or

(c) permitted to do so under the regulations.

## Division 2 – Offences

**Purpose** **Division 2 (Sections 74 to 79) identifies what constitutes an offence under the *Act* or regulations, and includes condoning prohibited activities and tampering with certification evidence. A one year time limit is established for starting proceedings.**

**Offences**

74 (1) A person who does any of the following commits an offence:

(a) contravenes, or fails to comply with, section 18 (4) or 38 (2) or any of sections 65 to 73;

(b) obstructs a safety officer or safety manager in the performance of their powers or duties;

(c) contravenes, or fails to comply with, a compliance order made by a safety officer or safety manager, a safety order, directive or discipline order made by a provincial safety manager;

(d) contravenes, or fails to comply with, an order of the appeal board;

(e) contravenes, or fails to comply with, any provision of the regulations, the contravention of which is stated in the regulations to be an offence;

(f) knowingly furnishes false information in any application under this Act or in any statement or return required to be furnished under this Act or the regulations.

(2) For the purposes of subsection (1) (b), a person obstructs a safety officer or safety manager if the person does any of the following:

(a) intentionally hinders or delays the safety officer or safety manager;

(b) fails to comply, as soon as practicable, with any valid request or requirement of the safety officer or safety manager;

(c) fails to attend, without reasonable excuse, at a place and time specified by the safety officer or safety manager under section 17 (1) (j);

(d) gives false or misleading information to a safety officer or a safety manager;

(e) fails to answer, without reasonable excuse, an oral or written question that the person is able to answer;

(f) fails to produce for inspection a record required by the safety officer or safety manager to be produced.

**Condoning prohibited activities**

75 A person commits an offence who does, requires, authorizes, allows, counsels, condones or acquiesces in any of the following:

(a) any activity, practice or conduct that is an offence under this Act or the regulations;

(b) any activity, practice or conduct that creates or may create an unsafe regulated product or causes or may cause unsafe regulated work;

(c) a licensed individual or licensed contractor doing regulated work for which the individual is not licensed or the contractor is not licensed.

**Tampering with certification mark**

76 A person commits an offence who removes, interferes with, changes, defaces or tampers with a certification mark without the approval of a certification agency, or a successor of that agency, that authorized the use of a certification mark for the regulated product.

**Offences by corporations**

77 (1) If a corporation commits an offence under this Act or the regulations, an employee, officer, director or agent of the corporation who authorized, permitted or acquiesced in the offence also commits the offence, whether or not the corporation is prosecuted or convicted.

(2) In a prosecution for an offence under or arising out of sections 74 to 76 it is sufficient proof of the offence to establish that it was committed by an employee, officer, director or agent of the defendant.

(3) Subsection (2) applies whether or not the employee, officer, director or agent is identified or has been prosecuted for the offence, but it does not apply if the defendant establishes that

(a) the offence was committed without the defendant's knowledge or consent, or

(b) the defendant exercised all due diligence to prevent its commission.

***Offence Act***

**78** Section 5 of the *Offence Act* does not apply to this Act or to the regulations.

**Limitation period for starting proceedings**

**79** A prosecution of an offence under this Act or the regulations may not be commenced more than 1 year after the facts on which the proceeding is based first come to the knowledge of a safety officer or safety manager.

## Division 3 – Penalties

**Purpose** **Division 3 (Sections 80 and 81) lists the maximum penalties for offences and, in addition to fines, allows the court to issue remedial orders that it thinks appropriate. This is to ensure that people who are convicted recognize that they have jeopardized public safety.**

**Penalty**

**80** (1) An individual who is convicted of an offence under this Act or the regulations is liable to a fine of not more than $100 000 or to imprisonment for not more than 18 months, or to both.

(2) In the case of a continuing offence, a person who commits the offence is liable to a further penalty of not more than $5 000 for each day during which the offence continues.

(3) A corporation that is convicted of an offence under this Act or the regulations is liable to a fine of not more than $200 000.

(4) In the case of a continuing offence, a corporation that commits the offence is liable to a further penalty of not more than $10 000 for each day during which the offence continues.

**Remedial orders**

**81** In addition to any fine imposed on a person, the court may order that the person take or cease taking such action as the court directs and may make any remedial or other order that the court considers appropriate.

## PART 11 – GENERAL

**Purpose** **Sections 82 to 84 deal with officials being protected from personal liability, how to serve documents and notices, and the authority for the minister to appoint advisory bodies for each discipline established in the regulations.**

**Officials not liable**

**82** (1) A legal proceeding for damages must not be brought against the minister, safety officers, safety managers, the appeal board and its members, or any other person who acts on behalf of the government or a local government because of anything done or omitted to be done in good faith

(a) in the performance or intended performance of any duty under this Act or the regulations, or

(b) in the exercise or intended exercise of any power under this Act or the regulations.

(2) Subsection (1) does not absolve the government or a local government from vicarious liability for an act or omission of a person referred to in subsection (1) for which the government or local government would be vicariously liable if this section were not in force.

**How to serve documents and notices**

**83** (1) If this Act or the regulations require or authorize an order, notice, penalty, decision or other document to be given or served, it may be served in the following manner:

(a) on a licensed contractor or licensed individual, by sending by ordinary mail or by delivery to their last address for service as is recorded in the register under section 19;

(b) personally, by leaving it with the individual to whom it is addressed;

(c) if the person to be served is a corporation, by leaving the document at, or mailing it by registered mail to, the registered office of the corporation or by personally serving a director or officer of the corporation;

(d) by registered mail addressed to the person to be served with the document or notice;

(e) by any other method specified by the regulations;

(f) by any other method specified by the court under subsection (3).

(2) If a decision or other document is served

(a) under subsection (1) (a) by leaving it at the address for service, the notice or document is deemed to have been received 3 days after it is left at that address,

(b) under subsection (1) (c) by leaving it at the registered office of the corporation, the corporation is deemed to have received the document 3 days after it is left at the registered office, and

(c) by ordinary mail or registered mail, the person to whom it is addressed is deemed to have received the document on the 14th day after deposit of the mail in the Canada Post Office at any place in Canada.

(3) On application by any person, the Supreme Court may, for the purposes of this Act,

(a) give directions on how to give notice of or serve a document on a person, or

(b) dispense with serving the document if the court is satisfied that the person already has actual notice of the contents of the document and is avoiding service.

(4) When the court makes an order dispensing with serving the document, the document takes effect without it being served.

**Advisory bodies**

**84** (1) The minister may establish one or more advisory bodies for each discipline defined in the regulations.

(2) An advisory body's duties include providing advice to the minister on safety, safety standards, qualification and licensing, enforcement and other matters specified by the minister.

(3) For each advisory body, the minister may do one or more of the following:

(a) appoint members;

(b) designate a chair of the advisory body.

(4) The minister must reimburse members for reasonable expenses incurred in carrying out their duties.

(5) When making a decision under section 21, 25, 26 or 44, a provincial safety manager may request advice from an advisory body established to provide advice in respect of the type of licence or certificate held or applied for by the person who is the subject of the decision.

(6) A provincial safety manager who intends to request advice under subsection (5) from an advisory body must, before requesting that advice, give reasonable notice to the person who would be affected by a decision under the relevant section of

this Act of that intention and that the person has a right to make representations to the advisory body.

## PART 12 – REGULATION-MAKING AUTHORITY AND BYLAWS

**Purpose** **Sections 85 to 86 contain enabling provisions for the Lieutenant Governor in Council and Minister of Municipal Affairs to make regulations under the *Act*. The regulations will set out the detail that gives effect to the legislation (i.e. to discipline specific rules). A consultative process leading to development of the regulations will be initiated over the next few months. Section 87 empowers local government administering any part of the *Act* or regulations to set fees and charges to cover that administration.**

**Lieutenant Governor in Council regulations**

**85** (1) The Lieutenant Governor in Council may make regulations referred to in section 41 of the *Interpretation Act*.

(2) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations as follows:

(a) defining any term or word used but not defined in this Act;

(b) specifying a thing to be a regulated product and specifying that a part or component of a regulated product is a regulated product;

(c) respecting the exemptions referred to in section 2 (2);

(d) authorizing a provincial safety manager

(i) to allow an exemption referred to in section 2 (2), or

(ii) to substitute other requirements if an exemption is granted;

(e) respecting costs, fees and charges

(i) for any application, request, review or appeal made under this Act or the regulations,

(ii) for the issue of a permit, certificate or other permission or a licence under this Act or the regulations, or for the renewal or reissue of any of them,

(iii) for inspections, investigations, monitoring, auditing or for any other duty or service performed by a safety officer,

(iv) for searches for and information about a design registered under the regulations or any information on the registry established under section 19, and

(v) to provide copies of information;

(f) respecting the imposition of monetary penalties;

(g) respecting incentives for early payment, and a penalty or rate of interest payable for late payment, of monetary penalties or for anything else payable under this Act or the regulations;

(h) respecting the costs that may be imposed on parties to, or intervenors in, a hearing before the appeal board;

(i) specifying those regulations for which a contravention makes a person liable to a monetary penalty;

(j) prescribing forms, including electronic forms, for the purposes of this Act and the information that they must contain.

**Minister's powers to make regulations**

**86** (1) The minister may make regulations as follows:

(a) respecting the safety of regulated work and regulated products;

(b) assigning and regulating the duties and powers of provincial safety managers, local safety managers and safety officers;

(c) establishing codes or standards respecting regulated work and regulated products or adopting by reference or all or part of a code or standard as provided in section 8;

(d) prohibiting, regulating or controlling any regulated work or regulated product;

(e) requiring a permit, certificate or other permission to be obtained before, during or after regulated work is done or a regulated product is used, operated or tested;

(f) prohibiting, regulating or controlling the disposal and acquisition of regulated products;

(g) requiring an employee or other person who is doing regulated work to meet requirements and qualifications under the regulations;

(h) respecting the testing, and use of regulated products;

(i) specifying the qualifications, training, experience and other requirements, including examinations, to be met to be eligible to be appointed as a safety officer or safety manager in any class of safety officers or safety managers;

(j) designating disciplines for the purposes of this Act and the regulations;

(k) respecting the examinations, standards and other requirements to be met to become eligible for and to obtain a certificate of qualification in each designated discipline, and who may set and administer those examinations;

(l) regulating or controlling any proposed or actual excavation or underground activity near a regulated product that effects or may affect the use or

installation of the regulated product or that is or may be affected by use or installation of the regulated product;

(m) governing the conduct of persons in, on, under or around a regulated product or regulated work;

(n) respecting applications for and the granting of permits, certificates or other permissions required by a person for anything done or required to be done with respect to regulated work or regulated products, and specifying requirements to be met for those purposes;

(o) exempting, with or without conditions, a person or class of persons from the requirement to obtain or have a permit, certificate or other permission;

(p) respecting the registration of designs and specifications of regulated products and the person or agency by whom they may be recognized and with whom they must be registered;

(q) respecting the qualifications, training or experience of applicants and other requirements for a licence as a licensed contractor or for a licence as a licensed individual under this Act, and specifying the terms and conditions, including examinations, applicable to licensing;

(r) respecting the nature and classes of licences under this Act and the regulations, and the terms and conditions of each, generally or specifically;

(s) respecting the issue, reissue, return, renewal, revocation and suspension of or expiry date for any permit, certificate or other permission or a licence under this Act or the regulations;

(t) defining "inactive" for the purposes of section 19 (4) and prescribing procedures for determining whether a registrant is inactive;

(u) respecting and requiring tests or examinations for any purpose under this Act.

(2) Without limiting subsection (1), the minister may make regulations as follows:

(a) respecting the records to be made and maintained for the purposes of this Act and the regulations;

(b) designating a person or a class of persons, including an organization accredited by the Standards Council of Canada to assess whether regulated products conform to standards recognized in Canada, as a certification agency for the purposes of this Act and the regulations, and specifying its powers;

(c) respecting certification marks;

(d) respecting variances and equivalent standards agreements;

(e) respecting the reporting and investigation of incidents and the information to be provided, and regulating the removal, disturbance or interference with anything following an incident;

(f) specifying any additional provisions in an agreement between the minister and a local government for the purposes of section 7 and the notice to be given by the local government, and governing the transfer of administration any provision of this Act and the regulations by a local government back to the minister;

(g) respecting the registry established under section 19, including

(i) additional information to be recorded in the registry,

(ii) designating information that is not available to the public,

(iii) providing for the removal of information from the registry, and

(iv) the administration and maintenance of the registry;

(h) respecting the generating, sending, giving, receiving, signing and storage of any record or notice by electronic means;

(i) respecting the means of providing or authenticating the identification of a person in respect of a signature, record or notice referred to in paragraph (h);

(j) respecting a bond, guarantee, warranty, insurance or other form of security to be provided and maintained by a licensed contractor;

(k) prescribing, for the purposes of this Act and the regulations, any additional methods by which a record or notice may be served;

(l) authorizing persons to issue certificates or to provide affidavits required under this Act.

**Powers of local governments administering this Act**

**87** (1) A local government that administers all or part of this Act and the regulations may, with respect to the provisions under its administration, by bylaw, provide for the setting of fees and charges for any matter related to that administration.

(2) Fees, monetary penalties, charges or fines imposed by a local government in the course of its administration and enforcement of this Act or the regulations must be paid to the local government.

## PART 13 – TRANSITIONAL PROVISIONS AND CONSEQUENTIAL AMENDMENTS

**Purpose** **The final legislation will include transitional provisions to ensure a smooth transition between the current and new regimes, and consequential amendments to a number of other acts which contain references to acts being repealed (e.g. *Vancouver Charter*, *Local Government Act* and *Pipeline Act*).**

**As well, the existing *Electrical Safety Act*, *Elevating Devices Safety Act*, *Gas Safety Act*, and *Power Engineers and Boiler***

***and Pressure Vessel Safety Act*** **will be repealed. The new *Act* will come into force by regulation, to allow sufficient time to develop the numerous regulations needed to "fill in" the legal framework created by the new *Safety Standards Regulation Act*.**

## 6.0 Feedback Form (by October 10, 2000)

**Does the draft Act generally meet your expectations in the area of:**

Safety Officers and Safety Managers (see Part 5) ❒ Yes ❒ No

Please explain _____

Licensed Contractors and Licensed Individuals (see Part 6) ❒ Yes ❒ No

Please explain _____

Implementation and Enforcement (see Part 7) ❒ Yes ❒ No

Please explain _____

Safety Standards Appeal Board, Review and Appeal Process (See Parts 8&9) ❒ Yes ❒ No

Please explain _____

Prohibition, Offences and Penalties (see Part 10) ❒ Yes ❒ No

Please explain _____

Powers of Local Government Administering this *Act* (see Part 2) ❒ Yes ❒ No

Please explain _____

**Additional comments:** _____

_____

_____

If writing space is insufficient, please use back sheet

**Your name, and company or organization** (optional):

_____

**Please reply:**


Mail: Ministry of Municipal Affairs
Name: Safety Standards Department
Address: PO Box 9490 Stn Prov Govt
Victoria BC V8W 9N7

Phone: 250 387-4095
Fax: 250 387-7973
E-mail: ssr@hq.marh.gov.bc.ca

Safety and Standards Department

Mailing address:
PO Box 9490 Stn Prov Govt
Victoria BC V8W 9N7

Location:

6th Floor 800 Johnson Street
Victoria

web site: www.marh.gov.bc.ca/SES/SSR/

QP 017369